

(U) May 10 House Committee on Foreign Affairs Hearing:
Modernizing U.S. Arms Exports and a Stronger AUKUS

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Chairman McCaul, Ranking Member Meeks, Honorable Members of the Committee,

Thank you for the opportunity to speak with you all today. The Administration believes that increasing information and technology sharing with our closest allies through AUKUS is necessary for U.S. security. I'm excited to talk to you about the role of the Political-Military Affairs Bureau in realizing AUKUS, one of the Biden-Harris Administration's key national security initiatives. Today I will discuss the steps we are taking to promote information and technology sharing and foster deeper integration of security and defense-related science, technology, industrial bases and supply chains.

AUKUS, as you all know, involves two pillars: Pillar 1 – providing Australia with conventionally armed, nuclear-powered submarine capability at the earliest possible date, and Pillar 2, trilaterally developing and providing joint advanced military capabilities to promote security and stability in the Indo-Pacific region. Announced in September 2021, this historic partnership will modernize and strengthen our longstanding alliances to reaffirm our shared commitment to a free and open Indo-Pacific. Pillar I is a key component of AUKUS that will be executed over the coming decades. Pillar II already offers opportunities to cooperate with our closest allies on advancing the technologies of the future and foster deeper integration of security and defense-related science, technology, industrial bases, and supply chains.

AUKUS Pillar II promises, at its heart, the most exciting opportunity for scientific collaboration in emerging technologies in a generation. Ranging from artificial intelligence to hypersonics to quantum technology to cyber, trilateral cooperation in these technology areas will enhance our joint capabilities, improve interoperability, and uphold regional peace and stability. Put another way, this is

a generational opportunity for us to fulfill the National Security Strategy in seeking to remove barriers to deeper collaboration with our closest allies.

Connecting the most advanced research and development communities in three of the most technologically advanced nations on earth – the UK, Australia, and the United States – poses real opportunities for global security. Just as we seek to pool technical expertise and complementary industrial capacity with AUKUS partners, we are also enhancing our collective capacity to withstand attempts to degrade our shared technology advantages, including through export controls. My Bureau, Political-Military Affairs, is at the heart of this effort. Make no mistake – for AUKUS to succeed, we need to both innovate boldly and protect our technology from those who wish to take advantage of any vulnerability in our systems. AUKUS partners have all agreed that a part of this strategy is ensuring we secure the gains that AUKUS makes so we and our allies may reap the maximum benefits within it.

To do this, the United States maintains defense export controls, under the Arms Export Control Act, or AECA, and International Traffic and Arms Regulations, or ITAR, to safeguard technologies that provide a critical military or intelligence advantage. These export controls are vital for safeguarding the most sensitive of U.S. technology, protecting Americans, and preserving the competitive edge of our defense industrial base and associated jobs. As we follow-through on the vision President Biden set out—a dramatic opening in sharing technology with Australia and the United Kingdom that will facilitate the defense trade relationships necessary to implement the National Security Strategy—it will also be crucial to maintain strong protections to ensure that the technological momentum our three nations achieve remains secure.

Now more than ever, these export controls are critical for our national security. I think it's clear to all of us that new technologies will define this century, with emerging technologies such as AI being just as revolutionary in the 21st century as the semiconductor was in the 20th.

We are in an intense global competition to develop the technologies of the future, and whoever comes out ahead will be best positioned to strengthen their

national security, their economy, and their vision of the world. We need to continue to do everything we can to ensure the United States, our allies and partners, and the free and open rules-based international system come out on top. Export controls are key to this mission. By facilitating secure defense trade, we will enable scientific collaboration in a safe environment and ensure that we are at the forefront of these innovations.

For years, we have seen widespread evidence that our strategic competitors, including the People's Republic of China, Russia, the Democratic People's Republic of Korea (DPRK), and Iran, have been seeking to obtain and exploit our advanced military – and civilian – technologies. We have seen PRC companies taking over elements of critical global supply chains, buying out key technology companies in allied nations, forcing technology transfers, and engaging in extensive intellectual property theft. We have also seen increasing cyber espionage from actors linked with the DPRK and Iran. We have seen global efforts by Russia to subvert sanctions through the exploitation of weak or vulnerable links in global export controls. Recent media coverage of training provided to PRC pilots only underscores the need to carefully regulate retransfers. Even here at home, the Departments of State and Justice have fined and brought criminal charges against American citizens and companies for sharing controlled technologies – knowingly or unwittingly – with firms linked to the PLA. In this era of strategic competition, we need to do all we can to stay ahead.

As we integrate our defense industrial bases under AUKUS, the top priority remains balancing the need to effectively protect technology with the need to ensure our regulatory frameworks do not hinder broader information and technology sharing. AUKUS is too important to wait – we need to act now, and we are. We have not only a generational opportunity, but also a historic responsibility to protect these technologies. The Department of State has developed an authorization mechanism to provide an interim solution as we move toward systemic changes. And now, I'd like to walk you through our plan to meet this moment.

The Administration will continue actively working with our AUKUS partners to ensure that technology security legal and regulatory frameworks, within each of

our three nations, provide comparable and effective controls to our own. The Department of State will implement a novel use of existing authorities to expedite and optimize technology sharing and defense trade among our AUKUS partners — an “AUKUS bubble,” if you will. This authorization mechanism will provide an interim solution as we simultaneously look toward systemic changes. We have begun our engagement with the Committee on this mechanism and will continue to consult closely with Congress as we finalize our approach.

Even as we make changes through our current authorities, the Administration will also work with our AUKUS partners on trilateral standards for secure defense trade. By increasing confidence in our security frameworks, we will facilitate unprecedented integration and responsible streamlining of our export control and information sharing laws, regulations, processes, and policies.

In tandem, the Administration plans to consult closely with Congress and propose legislative changes to meet the ambitions of AUKUS. To that end, we will seek legislative change that would allow increased exemptions to licensing requirements for AUKUS partners and expanded authorizations to permit transfers of both unclassified and classified defense articles and services for AUKUS project areas and relevant bilateral defense trade areas. This bold approach is critical to ensuring the AUKUS partnership continues to innovate and progress to meet the challenges of the global security environment.

To start, we are innovating within our system so that we maintain security while expediting transfers to facilitate the goals of AUKUS. But different rules are necessary to govern different types of trade. So, I want to elaborate on this approach and how, with the support of Congress, we can maintain these safeguards while making them more efficient.

We conduct defense trade through two major processes: Foreign Military Sales, or FMS, which are agreements between governments, and Direct Commercial Sales, or DCS, which are commercial agreements between American and foreign entities. These two systems are administrated by separate rules and processes. The vast majority of U.S.-Australia defense trade is conducted through the Foreign Military Sales process, which is not subject to the ITAR. The interagency,

including the Departments of State, Defense, and the NSC are all taking a thorough look at the FMS process to identify efficiencies and optimize our defense trade. The State Department has identified 10 areas for improvement to the FMS process, which will deliver efficiencies both in the context of AUKUS, and in the context of our global work to build the capability and interoperability of our defense partners and allies. We would be happy to brief you further on our recommendations.

The remainder of defense trade is conducted under the DCS, which is regulated by the ITAR. The ITAR includes a number of available tools Australia and the United Kingdom can use to support defense trade activities with the United States. These include the 126.4 exemption that permits license-free trade activities for cooperative projects authorized under bilateral agreements and the 126.18 exemption that allows our partners' defense companies to hire talent from across the global workforce using common-sense security protections. In 2021, the Department of State introduced a pilot program providing an Open General License for transfers and re-transfers of unclassified technologies. Moreover, both the UK and Australia are parties to their own Defense Trade Treaties with the United States, and we encourage both allies to take fuller advantage of these Treaties.

However, we acknowledge that while there are many tools at our disposal, the regulatory environment can be complex and difficult for our partners in industry to navigate. As such, in addition to these flexibilities, the State Department is moving ahead with a new AUKUS Authorization concept to further the implementation of Pillar II. This proposal builds on the existing ITAR 126.4 exemption that I previously mentioned and would permit a path via license exemption to transfer defense articles to, within, and between AUKUS partners if the transfer falls under the following lists that the governments of the United States, the United Kingdom, and Australia would draft:

1. A list of the programs that fall within the scope of the AUKUS program;
2. A list of the technologies that are ineligible to receive this preferred treatment; and
3. A list of the approved communities or entities within each country.

Exporters can check transfers against these three basic and transparent lists to ensure the transfer could proceed within the AUKUS “bubble”, without any further need for authorization. They will do so while maintaining the records of transactions that are key to our ability to conduct appropriate compliance checks and follow up on any reports of third-party exploitation.

Critically, this concept gives us the ability to act in a way that is familiar and therefore user-friendly for our defense industries, while we pursue legislative action. This step, using authorities granted by Congress, will enable the trilateral partners to work together to chart the path forward toward the larger transformational efforts we can achieve to advance AUKUS. We have begun our engagement with the Committee on this mechanism and will continue to consult closely with Congress as we finalize our approach.

Even as we make changes that we can implement through our current authorities, the Administration will be working with our AUKUS partners on collective approaches for secure defense trade to for further streamlining of our export control laws, regulations, processes, and policies. I look forward to working with this Committee to support an enduring way forward for the AUKUS partnership that is agile and will ensure secure defense trade and cooperation between, and among, the AUKUS partners.

In closing, I’d like to reiterate that for AUKUS to succeed, we need technologies and expertise to flow freely between our three nations, while safeguarding against hostile actors that would damage this collaboration, our competitiveness, and our national security.

We are confident that we will succeed. This generational defense and security partnership will require concerted work from us and our allies to ensure the best security guardrails and protections. As President Biden said just over 18 months ago, “The United States, Australia, and the United Kingdom have long been faithful and capable partners, and we’re even closer today.”

AUKUS will provide an opportunity for our greatest minds to collaborate in a secure environment, through a clear and transparent process that provides both near-term payoffs and long-term security. Our dual approach will help us act swiftly and decisively – by expediting export controls now under existing authorities and preserving flexibility for further legislative changes as required. We look forward to working with Congress to achieve this.

Thank you, and I look forward to your questions.